



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,336	09/24/2003	Robert L. Diaz	2385.004	5662

7590 02/28/2005

Michael A. Slavin, Esq.
McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410

EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
----------	--------------

3751

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,336

Applicant(s)

DIAZ, ROBERT L.

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/13/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youngblood et al (3,486,173) in view of et al (4,630,530).

The Youngblood et al reference discloses a ventilated bedpan assembly comprising: a toilet receptacle 46 having a bottom wall, generally upright side walls 48, and a top surface 48 having an opening adapted to receive human waste materials, the side surfaces including a venting port 58; a ventilation unit 64 constructed and arranged for detachable connection to the toilet receptacle 46, the ventilation unit 64 comprising: a plenum chamber in airflow communication with the venting port 58 said plenum chamber having an intake port 66 and an outlet port 70; air flow means 80,82 situated in air flow communication with the plenum chamber to induce air flow through the outlet port 70; and electrical power supply mean in operative communication with the air flow means 80,82 ; whereby actuation of said ventilation unit causes noxious gases to be withdrawn through the venting port 58 for deodorization prior to traversing the outlet 70.

Although the Youngblood et al reference does not disclose the ventilated device comprises an ozonation means, attention is directed to the Eckstrom et al reference

Art Unit: 3751

which discloses an ozone generating means 20 D including an ultraviolet (UV) light 42 (Fig. 9) for deodorizing and sterilizing the air through a ventilated system in a toilet.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an ozone generating means (i.e. an UV light bulb or lamp) in the Youngblood et al ventilated assembly in view of the teaching of the Eckstrom et al reference for deodorizing and sterilizing the air through the ventilated device to eliminate odor and produce cleaner air.

Regarding claim 2, the assembly further comprises an actuator 84 to an electrical power supply means.

Regarding claim 3, the actuator 84 is a manually operated on/off switch in electrical communication with the electrical power supply means.

Regarding claim 5, the electrical power supply means is a battery (col. 4, lines 22-23). Furthermore, it would be obvious to one of skill in art to employ a battery housing for storing batteries to facilitate replacement if needed.

Regarding claim 6, the electrical power supply means is an A/C power connection (see col. 3, lines 35-37).

Regarding claim 8, the ventilation unit is disposed in a housing having opposing openings therein to facilitate air flow through, the bedpan and the housing respectively include mated attachment means 60,62 whereby the housing and the bedpan can be selectively attached to one another.

Regarding claim 9, the ventilated bedpan assembly further comprises a fan 82 and a flexible hose 62.

Art Unit: 3751

Regarding claim 10, the venting port 58 is circumscribed by a cylindrical mounting 60 contiguous and extending outwardly from the bedpan 46, wherein the flange is adapted to slidingly receive the first end of the hose 62.

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Youngblood et al (3,486,173) in view of Eckstrom et al (4,630,530) and further in view of Ware (6,550,072).

Although the Youngblood et al reference does not disclose a pressure switch, attention is directed to the Ware reference which shows a pressure switch 20 located on the top surface of toilet for automatically turning the ventilated assembly on and off by a user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Youngblood et al ventilated assembly with a pressure switch in view of the teaching of the Ware reference for automatically turning the ventilated assembly on and off upon seating on the toilet and leaving the toilet.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Youngblood et al (3,486,173) in view of Eckstrom et al (4,630,530) and further in view of Miller et al (5,685,028).

Although the Youngblood et al reference does not disclose that the mounting flange 60 of the bedpan includes a spring-biased tab and cooperating aperture connection with the hose, such a quick-type coupling device is known. Attention is directed to the Miller et al reference which teaches a coupling device comprising a spring-biased tab 508 and aperture 506 for secure coupling and quick releasing.

Art Unit: 3751

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a spring-biased tab and cooperating aperture typed coupling device on the Youngblood et al bedpan assembly in view of the teaching of the Miller et al reference for allowing more secure coupling and quick releasing connection between the bedpan and the hose.

4. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruyere (6,003,157) in view of Eckstrom et al (4,630,530) .

The Bruyere reference discloses a ventilated bedpan assembly comprising: a toilet receptacle 160 having a bottom wall, generally upright side walls, and a top surface having an opening adapted to receive human waste materials, the side surfaces including a venting port 166; a ventilation unit 40 constructed and arranged for detachable connection to the toilet receptacle 160, the ventilation unit 40 comprising: a plenum chamber in airflow communication with the venting port 166 and the plenum chamber having an intake port 82 and an outlet port 84; air flow means 66 situated in air flow communication with the plenum chamber to induce air flow through the outlet port 84; and electrical power supply mean 48 in operative communication with the air flow means 66 ; whereby actuation of the ventilation unit 40 causes noxious gases to be withdrawn through the venting port 66 for deodorization prior to traversing the outlet 84.

Although the Bruyere reference does not disclose the ventilated device comprises an ozonation means, attention is directed to the Eckstrom et al reference which discloses another ventilated device for a toilet comprising an ozone generating

Art Unit: 3751

means 20 D including an UV light 42 (Fig. 9) for deodorizing and sterilizing the air through the ventilated device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an ozone generating means in the Bruyere ventilated assembly in view of the teaching of the Eckstrom et al reference for deodorizing and sterilizing the air through the ventilated device to eliminate odor and produce cleaner air.

Regarding claim 2, the assembly further comprises an actuator 70 to an electrical power supply means.

Regarding claim 3, the actuator 70 is a manually operated on/off switch in electrical communication with the electrical power supply means.

Regarding claim 5, the electrical power supply means is a battery (col. 4, lines 47-48). Furthermore, it would be obvious to one of skill in art to employ a battery housing for storing batteries to facilitate replacement if needed.

Regarding claim 6, the electrical power supply means is an A/C power connection.

Regarding claim 8, the ventilation unit is disposed in a housing having opposing openings therein to facilitate air flow through, the bedpan and the housing respectively include mated attachment means 36 whereby the housing and the bedpan can be selectively attached to one another.

Regarding claim 9, the ventilated bedpan assembly further comprises a fan 62 and a flexible hose 36.

Art Unit: 3751

Regarding claim 10, the venting port 166 is circumscribed by a cylindrical mounting flange portion 170 contiguous and extending outwardly from the bedpan 160, wherein the flange 170 is adapted to slidingly receive the first end of the hose 36.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruyere (6,003,157) in view of Eckstrom et al (4,630,530) and further in view of Ware (6,550,072).

Although the Bruyere reference does not disclose a pressure switch, attention is directed to the Ware reference which shows a pressure switch 20 located on the top surface of toilet for automatically turning the ventilated assembly on and off by a user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Bruyere ventilated assembly with a pressure switch in view of the teaching of the Ware reference for automatically turning the ventilated assembly on and off upon seating on the toilet and leaving the toilet.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruyere (6,003,157) in view of Eckstrom et al (4,630,530) and further in view of Miller et al (5,685,028).

Although the Bruyere reference does not disclose that the mounting flange 60 of the bedpan includes a spring-biased tab and cooperating aperture connection with the hose, such a quick-type coupling device is known. Attention is directed to the Miller et al reference which teaches a coupling device comprising a spring-biased tab 508 and aperture 506 for secure coupling and quick releasing.

Art Unit: 3751

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a spring-biased tab and cooperating aperture typed coupling device on the Bruyere bedpan assembly in view of the teaching of the Miller et al reference for allowing more secure coupling and quick releasing connection between the bedpan and the hose.

Response to Arguments

7. Applicant's arguments filed 12/13/2005 have been fully considered but they are not persuasive.

In regard to the applicant's arguments that the use Eckstrom et al wherein the entire lavatory room is deodorized is not analogous and relevant to the applicant invention which is designed to ventilate and deodorize a bedpan by incorporating an ozone generating means to the bedpan, the examiner respectfully disagrees with the applicant. The Youngblood et al reference disclose a ventilated bedpan having a pan, a ventilation unit, and a fan as the claimed invention except for an ozonation means. Eckstrom et al shows a filtration and ventilation system having ultraviolet lamp or light (i.e. ozonation means) for removing odor in a toilet environment. The use of the Eckstrom et al reference in this case is not for the filtering system for removing odor from an entire toilet room but merely for an ultraviolet lamp (ozonation means) in the Youngblood ventilated bedpan for removing odor in a toilet environment. The teaching of using an ultraviolet lamp (ozonation means) for deodorizing air shown by Eckstrom et al is not even necessary in the 35 U.S.C 103 rejections in combination with Youngblood et al and Bruyere because ozonation means are well known in the art and it would be

Art Unit: 3751

obvious to incorporate such means in a toilet environment to deodorize air as admitted by the applicant (see page 10, 3rd paragraph and page 11, 2nd paragraph). The use of Eckstrom et al is merely evidence.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HL
February 23, 2005


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

2/25/05